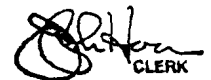


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

**FILED**

MAR 03 2009

  
CLERK

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UNITED STATES OF AMERICA,	*	CR 08-10037 (01)
	*	
Plaintiff,	*	
	*	
-VS-	*	ORDER GRANTING
	*	CONTINUANCE
	*	
KELLY C. WARD,	*	
	*	
Defendant.	*	

\*\*\*\*\*

The government filed motion for continuance, Doc. 45, and an affidavit in support of motion, Doc. 46. Defendant filed a motion for continuance of trial and for extension of relevant deadlines and response to United States motion for continuance, Doc. 47, and affidavit of Kelly C. Ward consenting to the continuance, Doc. 48. The defendant personally joins in the motion.

The Court finds that the ends of justice are served by continuing this trial which ends outweigh the best interests of the public and the defendant in a speedy trial. The continuance by the government is being sought due to the fact that the Assistant United States Attorney assigned to this case has annual leave scheduled for the currently scheduled trial date. Assistant United States Attorney Kelderman believes it would unduly and adversely affect the United States's prosecution and thus the interests of justice. The continuance being sought by the defendant is due to the fact that current counsel was only appointed to this case on February 13, 2009, and requires additional time to properly investigate and prepare for trial. Based on the record herein,

IT IS ORDERED:

(1) The motions for continuance, Docs. 45 and 47, are granted.

(2) All motions, other than motions in limine and motions for continuance, shall be filed and served on or before June 9, 2009. Opposing counsel shall respond thereto on or before June 16, 2009. All such motions shall be heard by the Magistrate Judge at such time as set after consultation with counsel.

(3) All motions for continuance will be considered by the Court when the defendant has filed a written consent to the continuance and the opposing party has filed a response.

(4) All motions in limine shall be filed at least ten (10) working days before trial.

(5) Counsel shall submit directly to the Court, the Clerk of Courts and to opposing counsel by no later than 4:00 P.M. on the business day before trial a list of all witnesses and proposed exhibits with a copy of each exhibit showing the number of each exhibit as marked. Requests for subpoenas shall be filed no later than fourteen (14) working days before trial. If jury selection takes place with the jury to return at a later date, the deadline shall be 4:00 o'clock P.M. on the business day before jury selection.

(6) Thursday, July 2, 2009, is hereby set as the deadline for submission to the Court and filing of any proposed plea agreements and the factual basis statement and motions to enter oral pleas.

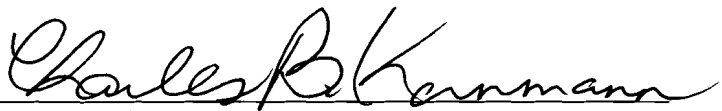
(7) The jury trial is continued to Tuesday, July 21, 2009 , at 9:00 o'clock A.M. in the Federal Courtroom of the U.S. Courthouse in Aberdeen, South Dakota.

(8) All proposed jury instructions shall be submitted to the Court not later than ten working days before trial. A copy of each proposed instruction showing source and authority notes shall be furnished to the Court and other counsel. The Court has assembled basic instructions used in all criminal cases defining duties of jurors, burden of proof, basic definitions and other matters. Therefore, the parties should only submit those instructions which are related to the specific matters in issue in this case.

(9) The period of delay resulting from such continuance is excluded in computing the time within which the trial of the offense must commence. 18 U.S.C. § 3161(h)(8)(A).

Dated this 3rd day of March, 2009.

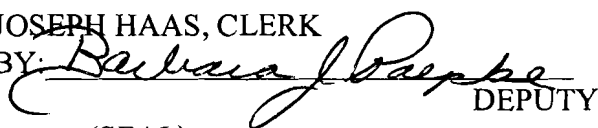
BY THE COURT:

  
CHARLES B. KORNMANN  
United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:

  
DEPUTY  
(SEAL)